

Dan Bernal
President
Laurie Green, M.D.
Vice President
Edward A. Chow, M.D.
Commissioner
Susan Belinda Christian, J.D.
Commissioner
Cecilia Chung
Commissioner
Suzanne Giraud ED.D
Commissioner
Tessie M. Guillermo
Commissioner

**HEALTH COMMISSION
CITY AND COUNTY OF SAN
FRANCISCO**

London N. Breed Mayor
Department of Public Health



Grant Colfax, MD
Director of Health
Mark Morewitz, M.S.W.
Executive Secretary

TEL (415) 554-2666
FAX (415) 554-2665
Web Site: <http://www.sfdph.org>

MINUTES
HEALTH COMMISSION MEETING
Tuesday April 18, 2023 4:00 p.m.
101 Grove Street, Room 300
San Francisco, CA 94102 & via Webex

1) CALL TO ORDER

Present: Commissioner Laurie Green, MD, Vice President
Commissioner Susan Belinda Christian, J.D.
Commissioner Cecilia Chung
Commissioner Suzanne Giraud, Ph.D

Excused: Commissioner Dan Bernal President
Commissioner Edward A. Chow M.D.
Commissioner Tessie Guillermo

The meeting was called to order at 4:03pm.

2) GENERAL PUBLIC COMMENT

Patrick Monette Shaw made verbal comments and submitted the following summary:

According to the trend-line graph on page 14 in SFDPH's February 2016 "Framing San Francisco's Post-Acute Care Challenge" report, San Francisco then supply of 2,542 SNF beds and the projected demand for 4,287 SNF beds in the year 2030 represented a 1,745-bed shortage — not a 700-bed shortage Pickens mistakenly cited in last week's LHH-JCC meeting. Since 2016, San Francisco's current SNF bed supply shrank by 293, to just 2,249 beds as of April 2023 (with the closure two weeks ago of the "Heritage On the Marina" skilled nursing facility); the shortage has gone up to 2,038 of the projected SNF demand for 4,287 SNF beds. That bed dearth shortage has increased. Add in potentially losing 120 LHH's SNF beds; the gap will widen to 2,158-beds, not 700-beds, assuming there will be no further private-sector closures of "free-standing" skilled nursing facilities in San Francisco before 2030, seven short years from now.

Dr. Teresa Palmer made verbal comments and submitted the following summary:

It was announced at April 11, 2023 LHH JCC that on April 13, Laguna Honda chiefs will meet with state and federal regulators to discuss the LHH "revised closure plan," which has not been accepted by these higher ups. We need an update on this! How will LHH find safe, local and appropriate placements for those who do not meet eligibility requirements for ongoing long term care at LHH? How will the rights

of families and residents to have a say in what is best for them be honored? Given the death rate from previous discharges, the public has a right to detailed information on how any discharge will be accomplished in a way that honors the safety, preferences and care needs of the resident. To prevent death and violation of resident rights is CMS/CDPH admitting to the need for an extension of the May 19 date for evictions?

Ellen Lee Zhou stated that all of you are working on agenda 21, not working for the people. The Coronavirus was never isolated. Data about positive and negative related to COVID19 was a lie, costing taxpayers money, which was not your money. None of you were elected into office. Who gave you the authority to enforce illegally by forcing the vaccine on us? We now see more and more people dying because they are vaccinated. End the unconstitutional vaccine mandate for the city of San Francisco. Recall unvaccinated workers.

3) REVIEW AND APPROVAL OF ADDITIONAL BUDGET PROPOSALS FOR FY 2023-2024 AND FY 2024-2025

Jenny Louie, DPH CFO, presented the item.

Commissioner Comment:

Commissioner Giraudo noted that the DPH health services in supportive housing are funded mainly by General Fund and Prop. C funds and asked if these services are at risk with the proposed budget. Ms. Louie stated that no service reductions are proposed in the current budget.

Commissioner Giraudo asked if San Francisco and the DPH will be able to access any of the funds from lawsuits related to opioid abuse. Ms. Louie stated that the City Attorney has been the point person on this issue. She added that a number of DPH services may be eligible for one-time funds from the settlements.

Commissioner Green thanked Ms. Louie, Greg Wagner, James Alexander, and all the DPH team who worked on the proposed budget, which includes no service reductions and no layoffs.

Action Taken: The Health Commission unanimously approved the FY2023-2024 and FY2024-25 DPH Budget.

4) LAGUNA HONDA HOSPITAL AND REHABILITATION CENTER (LHH) CLOSURE PLAN AND CMS RECERTIFICATION UPDATE

Roland Pickens, MHA, FACHE, Acting LHH CEO, presented the item.

Director Colfax thanked Mr. Pickens and the LHH team for its incredible work. The team remains laser focused on getting LHH recertified and becoming the exemplar of what a modern nursing facility should be. He noted that LHH has met hundreds of milestones and decreased its survey findings dramatically, all adding up to showing remarkable improvements.

Public Comment:

Melanie Grossman, Older Women's League, which advocates for older women, stated that a good percentage of LHH patients are women and the group is concerned about their welfare. If there are going to be transfers, will there be an opportunity to have input so they remain as close as possible to their families? There have been deaths with some of the previous transfers. Anyone transferred should go to a safe place. The group is concerned about the loss of 120 beds and the community is clamoring for information and if there has been movement on this issue. She would like clamoring on the part of the Health Commission and DPH to ensure women are safe and have a home.

Ken Tray, United Educators of San Francisco and a retired teacher, is concerned about LHH. From the group's perspective, the threat of closure is very real. The consensus is that their group needs to do all it can to support LHH remaining open and recertified.

Patrick Monette Shaw made verbal comments and submitted the following summary:

Slide #10 in Pickens' presentation doesn't display, and he didn't mention that the Quality Improvement Expert (QIE) — HSAG — first three Monitoring Reports on the 10th day of February, March, and April have all noted that of the milestones scheduled for completion in each of those three months revealed deficiencies in the "Action Plan" "deliverables" developed by LHH's senior managers or line staff, as shown in my chart Mr. Morewitz is displaying. Overall, 117 deliverables (34.8%) of the first 336 milestones required revision. It's not yet known how many of the remaining 118 milestones scheduled to be completed in April will also require deliverables revision. The reasons for deliverable revisions include 1) Mitigation plans with actions and timelines were not created, 2) Deliverable documents submitted didn't match information requested in the Action Plan — possibly including the Restorative Nursing Program "gap analysis" — and 3) Individualized care plans deficiencies aren't being corrected

Art Persyko, SF Gray Panthers Board member, submitted the following written public comment:

On March 31 2023 SFDPH published data on how many San Francisco hospital patients were transferred out of county for nursing home (SNF) care in 2021 and 2022—thus illustrating the desperate deficiency of beds in San Francisco. Despite the critical human need, there is no evidence so far that the City Attorney has requested (required in writing) a specific waiver/exemption for the 120 bed cuts at Laguna Honda ostensibly demanded by state and/or federal regulators. Is the Health Commission pushing the City and County of SF to do everything possible to save these beds?

Dr. Teresa Palmer would like to hear more about any insight on a moratorium on evictions. Based on the April 10th survey, it is evident there are basic problems, including one-to-one staffing to assist with behaviorally problematic residents. Is there any sign whether DPH staff can take care of these patients safely without infringing on the rights of other LHH residents? She asked if LHH is finding safe and local placements for those not needing skilled nursing services. She asked if there will be more discharges to homeless shelters and medical respite programs. A transfer or discharge is an eviction and does have transfer trauma. The community needs to know about the closure plan as soon as it is approved and any updates on an extension of the moratorium on mandatory discharges of patients still needing skilled nursing services.

Norman Dageleman, Gray Panthers, stated it was announced at the April 11th LHH JCC that on April 13th that LHH would discuss the closure plan with CMS. He asked how LHH will find appropriate placements for those discharged and how will residents and their families have a say in the discharges. The public has a right to be told what is happening.

Michael Lyon, Gray Panthers, stated that the lack of transparency on the part of DPH has been very upsetting. The community is very upset that the closure plan has been kept a secret. This plan is being negotiated between LHH and CMS officials, but the public has no idea what terms are being negotiated. We deserve to know in advance. There has been no positive indication that the City has formally applied for a waiver for 120 beds. He demands that there be no closure and no evictions.

Commissioner Comments

Commissioner Girardo asked if there is a mandatory timeline on the discharges of the cohort that no longer needs skilled nursing level services. Mr. Pickens stated that no timeline has been given by CMS. The LHH process is to implement its multi-disciplinary team assessment process. It is expected that many in his cohort will need board and care and/or residential care for the elderly. He reminded the Commissioners that LHH residents may appeal the discharge decision.

Commissioner Girardo asked how the discharge process for those no longer needing skilled nursing services impacts the recertification process. Mr. Pickens stated that CMS has made it clear that they expect LHH to

move as quickly as possible. LHH will have a safe, efficient, and expeditious process, making sure there are appropriate placements in the community. LHH will not do anything that puts anyone's health in jeopardy. Commissioner Giraud stated that she hopes CMS understands the complexity of this process.

Commissioner Christian asked if there is consideration of the person being transferred as to whether they have family or close contacts that can be near them. Mr. Pickens stated that this is part of the assessment, involving caregivers, family, and the medical and social work team. The assessment process requires that patients and families are part of the process. When a potential placement is found, the resident may appeal the discharge. The state must adjudicate the appeal within 90 days. He added that when these individuals came to LHH, they met skilled nursing care level criteria. As part of the LHH recertification effort, the Department of Aging, Department of Housing and Supportive Services, and DPH are working together to find appropriate resources.

Commissioner Christian asked if a person does not have family or close contacts but has told LHH that they have a friend in a specific location, would LHH contact the friend. Mr. Pickens stated that this is a regular part of the assessment process. If a resident gives LHH permission to contact someone, LHH will do so. He added that the state Ombudsman program has an office at LHH and meets with residents daily.

Commissioner Christian asked how community members who want to support recertification can help have an impact on CMS's decisions. Mr. Pickens stated that local advocacy has been helpful and encourages people to use whatever mechanism they can at the local, state, and federal levels. LHH appreciates the community's dedication and efforts.

Commissioner Green noted that the Commission is so supportive and grateful to all those working at LHH towards recertification. She asked how various elements such as milestone achievement, recent 2567 findings, and possible discharges of individuals who no longer need skilled nursing level of care may have on recertification efforts. Mr. Pickens stated that LHH is being judged on everything it does, including how it moves forward with community-based discharges of individuals who no longer need skilled nursing level of care. He noted that these discharges divert LHH of some of its staff resources that could be focused on quality improvement work, but it is part of the regulatory adherence needed at this time. Regarding the learning from the previous mandated discharges due to implementation of the Closure Plan, there is currently no requirement for the number of people that must be discharged within a specific timeline.

5) **CONSENT CALENDAR**

Public Comment:

Patrick Monette Shaw stated that a revised restorative nursing policy has not been brought before the Commission. He has placed public records request to find out the organization that awarded LHH for its previous implementation of this policy, which was developed in response to the DOJ mandate in 1988. Some deliverables implemented through the Action Plan had sloppy gap analyses, which the QIE found problematic and required revisions. He wonders if the restorative nursing policy may be one of these policies found problematic. He urged that the LHH JCC schedule a separate item on the restorative nursing policy.

Action Taken: The Health Commission unanimously approved the following:

<u>Item</u>	<u>Scope</u>	<u>Policy No.</u>	<u>Policy Title</u>
1	Facility-wide	25-10	Use of Psychotropic Medications
2	Facility-wide	31-01	Wireless Temperature Monitoring System
3	Facility Services	LS-2	Portable Fire Extinguisher Inspection and Maintenance
4	Nursing	C 3.0	Obtaining Nursing Forms, Medical Records Appendix 1: Obtaining

			Nursing Documentation Forms, Medical Records, and Chart Order
5	Nursing	D1 2.0	Resident’s Activities of Daily Living
6	Nursing	E 2.0	Assisting Residents During Mealtime
7	Nursing	E 5.0	Enteral Tube Feeding Management
8	Nursing	J 1.0	Medication Administration
9	Nursing	E 6.0	Total Parenteral Nutrition
10	Nursing	D5 3.0	Cast Care

6) APPROVAL OF THE MINUTES OF THE HEALTH COMMISSION MEETING OF APRIL 4, 2023.

Public Comment:

Patrick Monette Shaw made verbal comments and submitted the following summary:

As a reminder, these April 4 meeting minutes document Dr. Palmer and other public commenters expressed concerns Sutter/CPMC’s Davies campus plans “warm pool” for involve a reduction in services to the community — which, by definition, requires the Health Commission hold a “Prop. Q” hearing to determine whether that reduction in services “will” or “will not” have a detrimental effect on San Franciscans’ healthcare, as Commissioner Chow rightfully noted is in this Commission’s purview as SFDPH’s “governing body.” When will this Commission schedule this “Prop. Q” hearing? My mother was fortunate to access an aqua therapy program to ease her arthritis before she was admitted for SNF care at end-of-life. These minutes also document my concern Dr. Colfax and. Pickens are asserting there were 124 deficiencies in the December “90-Day Monitoring Survey”, but the QIE’s “RCA” report initially only listed 76 deficiencies, an unexplained variance of 48. Explain this discrepancy.

Action Taken: The Health Commission unanimously approved the April 4, 2023 minutes.

7) DIRECTOR’S REPORT

Grant Colfax MD, DPH, Director of Health, presented the item. He noted that the Board of Supervisors recognized Dr. Hillary Kunins, Director of Behavioral Health Services (BHS)and Mental Health SF, for her leadership and to celebrate progress made under the DPH BHS system.

PREHOSPITAL BUPRENORPHINE PROGRAM TO COMBAT OPIOID EPIDEMIC LAUNCHED

San Francisco launched a new program to expand buprenorphine distribution by emergency responders as part of the City’s efforts to reduce opioid overdoses. Buprenorphine helps reduce opioid withdrawal and cravings and, along with methadone, is the most effective treatment for opioid use disorder, reducing the risk of overdose fatalities by up to 50%.

Under this new initiative, emergency personnel from the San Francisco Fire Department (SFFD) will administer buprenorphine in the field prior to taking individuals to a hospital, expanding access to support patients who are experiencing opioid withdrawals. The program started April 1.

This effort builds on the DPH work to expand access to buprenorphine citywide, through a range of programs and services. This includes at hospitals and clinics, DPH Community Behavioral Health Pharmacy, shelters and navigation centers, jail, by delivery in City permanent supportive housing, and other settings.

For years, the prescription of buprenorphine was heavily regulated, which prevented emergency responders from being able to administer it in a prehospital setting. In December of last year, President Joe Biden signed the Consolidated Appropriations Act, 2023 which relaxed federal regulations to grant more medical

professionals the ability to prescribe this treatment, which like methadone reduces the risk of death by 40-50%. This change in regulations allowed the City to launch this new program by SFFD.

The program will be implemented in partnership with local emergency medical services (EMS) and addiction treatment providers. EMS personnel will receive training on the administration of buprenorphine and how to connect patients with addiction treatment resources. Emergency responders are often the first on the scene of an overdose, and the ability to administer this treatment in the field can make an immediate and meaningful difference for those grappling with addiction.

Under DPH's leadership, twice as many people are receiving buprenorphine treatment since 2013 and three times as many people since 2010. More than 3,100 people in San Francisco received this treatment for opioid use disorder in 2021.

With this news, Mayor Breed issued an instruction on Thursday, March 30, requesting departments propose additional options to reduce additional General Fund support, equivalent to at least another 5% in each year, by April 7th. For DPH, a 5% reduction represents approximately \$50 million of savings in its annual budget. Given the magnitude of this request, the Mayor's Office has agreed to allow DPH to submit its proposal after the April 18th Health Commission. While department staff will begin working on developing a plan to meet the instructions and will bring back additional proposals at the next Health Commission for its review and approval.

Expanding access to buprenorphine is part of the City's [Overdose Prevention Plan](#), which aims to reduce fentanyl and other drug-related deaths, increase access to treatment for opioid use disorder (including addiction to fentanyl) and stimulant use disorder, increase social support for and reduce the stigma experienced by people at risk of overdose, and improve the community conditions in which drug use occurs.

ACKNOWLEDGING DPH ENVIRONMENTAL HEALTH SERVICES ON EARTH DAY

Earth Day is celebrated annually on April 22 by answering calls to environmental action and raising awareness about the importance of protecting our natural resources for future generations. At DPH, Earth Day is an opportunity to recognize the many ways that our Environmental Health Branch works to keep the people of San Francisco safe.

As a preventative branch of public health enforcing 40-50 local health ordinances as well as state laws, our Environmental Health workers do a remarkable job. Commensurate with the scope of its activities, it is the largest branch in Population Health with, when fully staffed, around 160 employees operating more than 30 programs covering land, air, water, homes, schools, and businesses.

Dozens of health inspectors work in our Consumer Protection program to visit businesses throughout the City and ensure that restaurants, pop-ups, cottage food operations, caterers, stadium concessions and other food facilities are preparing and selling food in a safe and sanitary manner. These inspectors also regulate tattoo, body art and massage establishments to make sure they are offering these services in compliance with local and state laws.

Every week, Environmental Health tests the waters at our local beaches and piers to determine whether it is safe for swimming and fishing and posts advisory signage. The Water Quality Program also regulates and monitors swimming pools and spas to prevent drownings and the spread of infectious diseases, and helps buildings safely capture and treat rainwater and graywater for reuse onsite for toilet flushing and irrigation.

There may be an increase in mosquitos in San Francisco due to the recent rain. Fortunately, our certified vector control technicians are working diligently to eliminate mosquitoes, as well as rodents and other insects that spread diseases like West Nile virus.

Some Environmental Health programs focus on protecting public health, safety, and the environment from the impacts of hazardous materials release and management of hazardous waste and solid waste. The Hazardous Materials and Waste Program regulates businesses that store, use, or handle hazardous materials, hazardous waste and medical waste. The Site Assessment and Mitigation Program provides regulatory oversight of characterization and mitigation or cleanup of hazardous substances found in soil, soil vapor, and groundwater. The Solid Waste Program regulates refuse collection, solid waste sites and mandates refuse service for all San Francisco businesses and residents.

The Tobacco Program works collaboratively with other DPH branches to prevent tobacco sales to minors and to reduce the availability of harmful tobacco products. The Apartment Inspection Program works to ensure that multi-unit apartments maintain healthy environmental conditions. For new construction in areas with poor air quality, we require enhanced ventilation systems to protect residents from respiratory and heart effects.

The Children's Environmental Health Promotion Program tackles issues surrounding lead, asthma, housing insecurity, and other social determinants of health. The Childhood Lead Prevention Program, in particular, has been extremely effective in protecting San Francisco children from the harmful effects of lead exposure since it launched in 1993.

This may seem like an exhaustive listing, but the above programs and services are actually just a portion of all the work that our Environmental Health Branch does to keep people safe. Moreover, this branch is continuously evolving and adapting to new regulations and laws to stay on the best course to ensure a safe and healthy San Francisco. Thank you to DPH Environmental Health staff for all they do to make our city a better place to live and play.

DPH NURSING CAREER FAIR

On Saturday, April 8, DPH hosted a Registered Nurse Career Fair at ZSFG Hospital for prospective RNs to learn more about the exciting nursing opportunities available throughout DPH. There were three sessions where we welcomed 100 potential new team members to meet the Nursing Leadership Team, tour the hospital, speak with other ZSFG registered nurses, meet HR representatives to ask questions and learn about the application and hiring process with the City, and submit applications on site for nursing positions. This was a multi-departmental event that involved the hospital and HR staff. Nurses play a critical role in keeping San Francisco healthy and resilient and we are eager to expand our outreach with events like this that showcase the great work opportunities available here.

LAUNCH OF VIRTUAL LEAN TRAINING MODULES

DPH's Kaizen Promotion Office is launching a series of Lean training modules called the Lean Foundation Series. DPH's response to the COVID-19 pandemic and other priorities in the department have taught us the importance of problem solving, the use of data for improvement and the development of standard work. Lean Basics is the first of the two series and consists of four 15-minute introductory modules to complete at your own pace. At the end of these modules, you can go into SF Learning in the Employee Portal to download your certificate of completion.

The topics include Introduction to Lean, Introduction to Problem Solving, Data for Improvement, and Introduction to Standard Work. They are available to all DPH employees by going to the SF Employee Portal and selecting the SF Learning website.

DPH leadership encourage managers, executives, and anyone new to Lean to take advantage of this new learning tool. As with any training, the principles and concepts will be most helpful when applied soon thereafter, so we encourage staff to consider up front how they will use the information to improve the care of patients and develop themselves and the team. This is the first series in several additional modules that will be created to help staff better understand how to apply Lean to their work. For those interested in Lean certification, completion of these modules is a requirement for certification.

COVID-19 UPDATE

As of 4/12:

- San Francisco's 7-day rolling average of new COVID cases per day is 41 and 40 people are hospitalized, including 8 in the ICU.
- Eighty-six percent of all SF residents have been vaccinated and 65% have received booster dose(s). Thirty-nine percent of residents have received a bivalent booster.

[DPH in the News](#)

Public Comment:

Patrick Monette Shaw made verbal comments and submitted the following summary:

During his COVID update remarks today, Director Colfax failed to bother mentioning the current COVID outbreak among LHH's residents. Mr. Pickens just mentioned LHH's COVID outbreak involves 52 patient infections, but neglected mentioning how many staff have tested COVID positive who may have brought this outbreak in, along with visitors. Of LHH's current 530 patient census, the 52 COVID cases represent 10% of patients.

: Since COVID cases are reported to both CMS and CDPH, you can bet your Bippy they are aware of this outbreak, which suggests a lack of infection control — again — at LHH. You'll recall LHH's infection control problems contributed, in part, to LHH's initial decertification in April 2022. The lack of infection control remains of ongoing concern to CMS/CDPH regarding re-certification regulatory compliance preparedness. This is a terrible one-year decertification anniversary present to LHH's residents. Infection control responsibility was, sadly, just returned to the Nursing Department.

Ellen Lee Zhou stated that all of or you are working on agenda 21, not working for the people. The Coronavirus was never isolated. Data about positive and negative related to COVID19 was a lie, costing taxpayers money, which was not your money. None of you were elected into office. Who gave you the authority to enforce illegally by forcing the vaccine on us? We now see more and more people dying because they are vaccinated. End the unconstitutional vaccine mandate for the city of San Francisco. Recall unvaccinated workers.

Commissioner Comments

Commissioner Giraudo asked for more information on the new Omicron variant, noting that it seems to impact children more frequently. Director Colfax stated that it is likely to be more contagious and increase conjunctivitis and does not seem to lead to an increase in hospitalizations or deaths. The best way to protect against the virus including being up to date on vaccines and masking.

Commissioner Green thanked Director Colfax for the positive report.

8) JOINT CONFERENCE COMMITTEE AND OTHER COMMITTEE REPORTS

Commissioner Laurie Green, LHH JCC Member, stated that at its April 11th Laguna Honda Joint Conference Committee meeting, the committee received a recertification update similar to the one presented at the meeting today. The committee also discussed fiscal year 22-23 Facility Report which provides an assessment and data on many aspects of the hospital and its population. Some of the data includes the resident population services and its care needs and most common diagnoses; staffing and competencies of provided services, and risk analysis for the entire campus. The committee also reviewed the Finance Report, Hiring and Vacancy Report, and Regulatory Affairs Report. As noted earlier, the committee reviewed and recommended

all the policies on today's Consent Calendar. In closed session, the committee approved the Credentials Report and PIPS Minute Report.

Commissioner Suzanne Giraud, chair, gave an update on the Community and Public Health Committee. She noted that the committee reviewed and gave feedback on the draft DPH Annual Report for fiscal year 2021-2022. She added that the draft report includes a review of the DPH COVID-19 response, Behavioral Health Services residential treatment expansion, implementation of the DPH Racial Equity Plan, 21 program highlights, and data resources. The committee members requested that data be added regarding the number of people served in the program highlights. The committee also discussed a presentation on the Environmental Justice Framework, the result of Senate Bill 1000, which is a collaboration of many City departments. The framework looks at policies to guide the strategies going forward, addressing health risks. The areas of focus are healthy and resilient environments; physical activity and healthy public facilities; healthy food access, safe, healthy, and affordable homes; equitable and green jobs; and empower neighborhoods.

Public Comment:

Patrick Monette Shaw made verbal comments and submitted the following summary:

During the JCC's 4/4/23 meeting Pickens repeated "We are doing everything we can to pursue the process [of submitting a waiver]." Commissioner Green asked questions about CDPH precedents granting room capacity waivers to other SNF's. I'm aware other SNF's in California have, in fact, received waivers, some allowing four-person and six-person occupancy. Green asked, "What are the steps regarding a waiver request for the 120 beds, and whether they can be [re-instated] if [demand] is needed? Do we have to be re-certified to apply for a waiver for the 120 beds?" Pickens didn't answer. Green and Pickens appear looking for a precedent, which is unnecessary given that [42CFR §483.90\(e\)\(3\)\(ii\)](#) provides that survey agencies — here, CDPH — may grant a waiver to its number-of-patients-per-room rule when facilities request in writing an exemption that it "will not adversely affect residents' health and safety." That's the only "precedent" Commissioner Green, Pickens, and LHH need.

As I noted during oral public comment this "Other Committee report" from your Public Health Committee wasn't properly publicly noticed on today's agenda and Mr. Morewitz probably should have cut short the presentation and discussion because it hadn't been properly noticed, although agenda item 8 was titled "LHH-JCC Committee Update and Other Committee Reports." The public wasn't explicitly forewarned there would also be a "Public Health Committee Update" report. During the "Public Health Committee Update" information regarding "Environmental Justice" was presented. That's ironic, because there was no mention made about the fuel line leak on LHH's campus reported in the City's new "10-Year Capital Plan." How long has the fuel line leak been going on? LHH is already on the State's "Cortese List" of hazardous materials sites, due to benzene (carcinogen) contamination in LHH's soil caused by fuel storage tanks on LHH's campus and leaks from a neighborhood gas station.

Dr. Teresa Palmer made verbal comments and submitted the following summary:

On March 31 2023 SFDPH published data on how many San Francisco hospital patients were transferred out of county for nursing home (SNF) care in 2021 and 2022—thus illustrating the desperate deficiency of beds in San Francisco. Despite the critical human need, there is no evidence so far that the City Attorney has requested (required in writing) a specific waiver/exemption for the 120 bed cuts at Laguna Honda ostensibly demanded by state and/or federal regulators. Is the Health Commission pushing the City and County of SF to do everything possible to save these beds?

9) OTHER BUSINESS:

Commissioner Chung noted that during the discussion at the Community and Public Health Committee meeting on the Environmental Justice Framework, the Commissioners discussed their desire to make sure

voices of youth are part of that process and implementation.

Commissioner Giraudo noted that most DPH presentations and reports only include data for adults and encouraged the DPH to include more information on younger populations too. Commissioner Christian joined Commissioners Chung and Giraudo to amplify the importance of having a focus on young members of the city to gain greater understanding of this group's health and wellbeing, and resources directed to them.

Public Comment:

Patrick Monette Shaw made verbal comments and submitted the following summary:

As for "Other Business" this Commission has a whole spectrum of work you need to do. For instance, you need to schedule a "Prop Q" hearing on CPMC-Davies Hospital reducing community access to hydrotherapy services in Davies' "warm pool." The "Framing the Post-Acute Care Challenge" report SFDPH authored seven years ago in 2016 is sadly now seven years out of date. The gap between current SNF-bed capacity and projected demand for SNF beds just seven years from now in 2030 suggests there may be a 1,700-bed gap between supply and demand. You need to require SFDPH's "Planning and Policy" Department update that 2016 SNF bed capacity report. The Commission allowed SFDPH to repurpose the MHRF from its intended purpose of providing mental health rehabilitation and shoving those patients into LHH which it can't provide safely. Re-instate the MHRF's original mission. And finally, submit the LHH 120-bed waiver request to CDPH!

10) CLOSED SESSION

- A) Public comments on all matters pertaining to the Closed Session. (San Francisco Administrative Code Section 67.15).

Public Comment:

Patrick Monette Shaw made verbal comments and submitted the following summary:

Your closed session is to receive City Attorney advice on settling three lawsuits filed by City employees to settle "labor disputes": Dellfinia Hardy, a Licensed Vocational Nurse for a \$116,250 settlement; Cheryl Thornton, a Hospital Eligibility Workers to settle a \$100,000 lawsuit; and Darlene Daevu, a Health Program Coordinator III to settle a \$90,000 lawsuit.

The three lawsuits total \$306,250 — excluding City Attorney time and expenses in defending the City against the three lawsuits. Public records will eventually reveal the costs involved with the City Attorney's time and expenses. And public records of the U.S. District Court legal briefs will reveal the cause of actions in each of the three lawsuits. Observers wonder whether the lawsuits will, once again, involve wrongful termination of the three employees, a practice all too common for San Francisco Department of Public Health employees. You should list the basis of the lawsuits on your agendas.

Ellen Lee Zhou stated that you have been abusing your public position by helping deep state communism that will force people to use an ecological weapon.

- B) Vote on whether to hold a closed session in relation to item 11.C below regarding pending litigation and to assert the attorney-client privilege in relation to that closed session discussion.

Motion that the Health Commission convene in closed session with the City Attorney for the purpose of conferring with, or receiving advice from, the City Attorney regarding existing litigation to which the City and County of San Francisco is a party and proposed settlements as described below and whether to assert the attorney-client privilege in relation to those matters. Discussion in open session concerning these matters would likely and unavoidably prejudice the position of the City in the pending litigation matters listed below.

(San Francisco Administrative Code Section 67.10(d); and California Government Code Section 54956.9(d)(3)).

Action Taken: The Health Commission unanimously voted to hold a closed session an assert attorney-client privilege.

- C) Closed Session Pursuant to San Francisco Administrative Code Section 67.10(d); and California Government Code Section 54956.9(d).

PROPOSED ACTION: SETTLEMENT OF LITIGATION: Dellfinia Hardy – CITY TO PAY \$116,250.
DELLFINIA HARDY, Plaintiff, vs. CITY AND COUNTY OF SAN FRANCISCO, Defendant.
(U.S. District Court, Northern District of California, Case No. 3:21-cv-02934-SI) (Action Item)

PROPOSED ACTION: SETTLEMENT OF LITIGATION: Cheryl Thornton – CITY TO PAY \$100,000.
CHERYL THORNTON, Plaintiff, vs. CITY AND COUNTY OF SAN FRANCISCO, Defendant.
(U.S. District Court, Northern District of California, Case No. 3:21-cv-02938-SI) (Action Item)

PROPOSED ACTION: SETTLEMENT OF LITIGATION: Darlene Daevu – CITY TO PAY \$90,000.
DARLENE DAEVU, Plaintiff, vs. CITY AND COUNTY OF SAN FRANCISCO, Defendant.
(U.S. District Court, Northern District of California, Case No. 4:21-cv-02936-JST) (Action Item)

RECONVENE IN OPEN SESSION

1. If Closed Session is complete, discussion and vote to elect whether to disclose any portion of the Closed Session discussion that is not confidential under Federal or State law, The Charter, or Non-Waivable Privilege (San Francisco Administrative Code Section 67.12(a).)
2. If Closed Session is complete, possible report on action taken in Closed Session (Government Code Sections 54957.1(a) and 54957.7(b) and San Francisco Administrative Code Section 67.12(b)).

Action Taken: The Health Commission voted unanimously to not disclose discussions held in closed session.

11) ADJOURNMENT

The meeting was adjourned at 6:47pm.